Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 12 noon, on Monday the 26th February 1917/15th Kumbhom 1092.

Present.

DEWAN BAHADUR M. KRISHNAN NAIR ESQ., B. A. & B. L.,
Dewan.....*Presiding.*

A. J. Vieyra Esq., B. A.
V. Subba Aiyar Esq., B. A. & B. L.
N. Subrahmanya Aiyar Esq., M. A.
R. Mahadeva Aiyar Esq., B. A.
Rao Bahadur K. V. Rengaswami Aiyangar Esq., M. A.
I. C. Chacko Esq., B. A. B. Sc.
K. Parameswaran Pillai Esq., B. A. & B. L.
K. G. Sesha Aiyar Esq., B. A. & B. L.
T. K. Velu Pillai Esq., B. A. & B. L.
Paul Daniel Esq., M. A. & L. T.
A. Govinda Menon Esq., B. A.
M. Subramonia Pillai Esq.

K. Narayanan Pandalay Esq., B. A. & B. L., ...*Secretary.*

The Secretary reported that the Christian Succession Bill, finally passed by the Council on the 20th December 1916, received the assent of His Highness the Maha Raja on the 21st December 1916, and became Law as Regulation II of 1092.

The Secretary also reported that Messrs. A. Govinda Menon, B. A., and M. Subramonia Pillai, who had been appointed Non-official Members of the Council, took their seat in Council that day.

THE MUNICIPAL BILL.

Mr. Subba Aiyar moved for permission to introduce the Municipal Bill, by suspending the operation of Rule 33, as the translation of the Bill had not yet been published in the Gazette.

Seconded by Mr. Vieyra.

Carried.

Mr. Subba Aiyar then spoke as follows :—

Sir,

I beg to introduce the Municipal Bill which is intended to extend the sphere of activity and usefulness of the present Town Improvement Committees and to confer upon them enlarged powers.

Till the year 1069 the sanitation of the town of Trivandrum was regulated by a set of rules passed by the Government. These rules had not the force of law and did not apply to places other than Trivandrum. A Regulation to provide for the conservancy and improvement of towns was therefore passed in 1069. This Regulation was a small one, consisting of 62 Sections. Under this Regulation five Committees were constituted at Trivandrum, Nagercoil, Quilon, Alleppey and Kottayam. The number of members in these Committees varied from 5 to 9 with always an official majority. The scope and powers of the Committee were very limited being mainly confined to the supervision of sanitary arrangements. The allotment given by the Government and fines and penalties levied under the Regulation were the only sources of the Town Fund. The Committee had no power of taxation and it was therefore not possible for them to enlarge their resources and attend to the needs of a town.

This Regulation was therefore superseded by Regulation III of 1076. The passing of this Regulation was the first step forward in the path of civic administration proper. Under the Regulation the Committees are empowered to add to the Town Fund by taxation. This Regulation was amended by Regulation V of 1085 and Regulation II of 1088. By Regulation V of 1085, the statutory obligation imposed on the Government to contribute a definite sum for each Committee was removed. In winding up the debate on the question, your predecessor the then Dewan said " It is not a question of the interests of Government as against the interests of the urban population. On the other hand it is a question of the interests of the general tax-payer as against those of the urban population.....It is not now the intention of His Highness' Government to throw the administration of the towns wholly upon the resources of the people of these towns. All that is desired is that there must not be this statutory obligation imposed on Government to contribute certain amounts, but that it should be left to Government from time to time to determine, *with reference to the general revenues*, what contribution should be made towards the maintenance in a sanitary condition of the

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towns. Allotments like that must obviously vary from year to year..... The existence however of a statutory obligation like this is unprecedented. It is against all principles of finance that there should be a law compelling the Executive Government to spend fixed sums every year on a few favoured localities." It may be interesting to know that while in 1084 the allotment for the Committees was over Rs. 45,000, the amount in 1091 was almost the same with this difference that the amount was distributed among a larger number of Committees.

The official majority is now a thing of the past and every Committee enjoys the privilege of having an overwhelming majority of non-official members. The majority of non-official members are elected in 12 out of the 19 Committees and one of the Committees enjoys the proud privilege of having a non-official President. In spite of all this it is found that the existing law does not meet with the requirements of modern times and the Committees find that the scope for useful work is very much limited. The law is very defective in that the necessary powers to work out some of the provisions of the existing Regulation have not been conferred upon the Committees. "Where a Corporation is created by a statute, its powers are limited and circumscribed by the statute creating it.....What the statute does not expressly or impliedly authorise is to be taken to be prohibited." Consequently some of the bye-laws proposed by some towns could not be passed as they will be *ultra vires* if passed. To remedy these defects it was proposed to amend the Regulation, and all the Committees were requested to send up their suggestions. These suggestions were very many and they could not be introduced without redrafting the whole Regulation.

The cry all over India is for wider powers in local self-government. The British Indian Acts give much wider powers to the Municipal Councils. The success of municipal administration mainly depends upon the activity of the various Committees. An interest in the work and a feeling of responsibility mainly contribute to the achievement of this object. These two cannot be attained unless the Committees are entrusted with an adequate sphere of work. Naturally therefore, the Quilon Committee point out that the object of the law ought to be to make "better provision for the organization of Town Municipalities in Travancore, for the conservancy and improvement thereof, for the purpose of diffusing education therein and for other objects of public utility calculated to promote the health, comfort and convenience of the inhabitants of the said Municipalities". They add, "We propose to make these suggestions, for we consider that the time has come, so far as some of the Municipalities at any rate are concerned, to invest them with greater powers than the mere power of looking after their sanitation". This view is shared by the Parur T. I. C., and they suggest that "the functions of the Municipality ought to be extended so as to include all matters connected with sanitation, medical relief, education, communication, etc." It cannot be said that the demands of the Committee are unreasonable. In British India, Mysore, and Baroda and other Native States, the sphere of activity of municipal institutions is much wider. If, as the late Mr. Thanoo Pillai observed, "in education, general intelligence and public spirit" the people of Travancore are not behind those in British India and other Native States, it only stands to reason that the sphere of activity of the Travancore municipal institutions should also be extended. When the British Indian Acts are to be further amended with a view to give still wider powers to municipal institutions, it may not be in keeping with a progressive administration to refuse the reasonable requests of the Committees. In response to the representations made by the Committees and encouraged by the successful administration of municipal affairs by many of the towns, it has been thought desirable to extend the sphere of activity and usefulness of the Committees and give them enlarged powers. This principle has been kept in view in drafting the Bill.

The existing Regulation was based on the Punjab Act, XX of 1891, and some of the provisions of the Madras District Municipalities Act also find a place therein. The Punjab Act has since been recast as Act III of 1911 and the Madras District Municipalities Act is being revised. The Punjab and Madras Acts have mainly been followed in the Bill. Here and there some Sections of other British Indian Acts have also been adopted. With a view to give a clear idea as to what modifications have been made in the existing law, all the modifications have been printed in italics. The corresponding Sections of the various enactments have also been given for easy reference. A comparative table showing the Sections of the Bill and of the existing Regulation has also been added.

In view of the extended sphere of activity of the Committees, the title of the Regulation has been altered and the Town Improvement Committees will be hereafter called "Municipal Councils", and "Municipalities" will take the place of "Towns".

The amendments have been explained at length in the statement of Objects and Reasons and the Notes on clauses appended thereto. I shall, however, make a few general observations about the nature and scope of the Bill.

The Bill is divided into 14 chapters. Chapter I defines the terms used in the Bill and describes how Municipalities may be constituted. With a view to avoid doubts that may arise in the interpretation of some of the Sections, a distinction has been clearly maintained between bye-laws and rules, the former being restricted to the Regulations passed by the Municipal Councils and the latter to those made by the Government direct. Section 53 of the existing Regulation details some offensive and dangerous trades in order that the same may be regulated by the Committees. In the practical working of the Section, the Committees have found it

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necessary that they should have power to control some others also. Similarly in the case of epidemic diseases, cholera, plague and small-pox alone are included. The enumeration in these two Sections is not exhaustive. Though an enumeration has been attempted in the new Bill, it may be that there are still others that may have to be brought under control. Consequently definitions of 'offensive and dangerous trades' and 'infectious disease' include other trades or diseases which the Government may declare to be offensive or dangerous or infectious. There was a reference from one of the Town Improvement Committees as to whether a private compound consisting of rows of houses with a common way will be a street as defined in the Regulation. The definition given in the existing Regulation does not exclude the natural meaning of the word 'street'. A private compound consisting of rows of houses with a way for the inmates of those houses or their visitors or their tenants and not open to the public may yet be a street. Vide the observations of Russel J. in I. L. R., 30 Bombay 558. The definition will therefore include a private court or an alley. As to the necessity for including the same within the definition, the remarks of Jessel M. R., in 1876, 4 Ch. D. page 395 at page 408 are pertinent. His Lordship observes :—"The owners of these private courts and alleys are, of all people in the world, the most averse to laying out money in sanitary works. It is in these places that the poor live, the very people who suffer most from the want of sewerage and drainage, which are so requisite for public health. Is it to be imagined that the legislature intended to except such places as these from the operation of the Act? I should say, if the Act were passed for anybody, it must have been meant to include those owners, who, for the sake of gain and acquiring high rents in proportion to the annual value of the wretched tenements they allow the poor to occupy, neglect ordinary and necessary sanitary precautions. If I were to interpret it by what I might think to be the mind of the Legislature, I should suppose that the first people to be included would be the owners of these crowded courts and alleys, over which the public have no strict rights whatever, but which are intended to be used for the dwellings of the poor, and are unprovided with what, according to modern science, is known to be absolutely necessary for their well-being. Such places could not therefore be excepted from the operation of the Regulation". The definition therefore follows the ruling in Armstrong v the London County Council (1900. 1 Q. B., 416).

As for the other Sections in the chapter, they follow mainly the provisions of the existing Regulation. Though Section 5 of the Regulation provides for the cancellation of a notification constituting a 'Town', the Regulation is silent as to the effect of such cancellation. Clause 6 of the Bill therefore provides that, when a notification constituting a town is cancelled and the Council is dissolved, not only the Regulation bye-laws and rules will cease to apply, but also that the balance of the Municipal Fund shall vest in the Government and that the liabilities of the Council shall be transferred to the Government. The assets shall be applied to discharge the liabilities or for the good of the inhabitants of the local area concerned.

It may be that in the working of the Bill, it will be found undesirable that all the provisions of the Bill should apply to any particular Municipality. The Government are empowered to exempt any municipality from the operation of any of the provisions of the Regulation.

Chapter II deals with Municipal Councils and is divided into 6 sub-headings. The constitution of Municipal Councils is detailed at the outset. Under the Regulation of 1069 three-fifths of the total number of members were officers and the rest non-officials. The Regulation of 1076 was an improvement upon the old one. Under this Regulation, the number of official members ought not to exceed one-half. The Committees may be permitted to elect not less than one-fourth of the total number of members. Two of the Committees have suggested that the number of elected members should be raised to one-half. With regard to this suggestion, it has to be observed that, unlike the British Indian Acts, the election here is confined only to non-official members as public servants are not under the rules qualified to be returned as members. Further the maximum of official members has been fixed at one-third in the draft Bill. Not less than two-thirds of the total number of members will therefore be non-official members. The Committees enjoying the privilege of election were electing till recently all the non-official members. Since the beginning of this year, the non-official seats in some of the Committees have been raised and two of the non-official seats have been reserved for Government nomination with due regard to the interests of unrepresented minorities. It will thus be seen that many of the Committees are allowed to elect not less than one-half of the total number of members. It will therefore be readily conceded that the aim of the Government is to increase the number of elected members as far as possible. The question then is whether the raising of the minimum of elected members to one-half in a statute is desirable. It may turn out that in the case of some of the Committees not now enjoying the privilege and others which may hereafter be constituted, the privilege should be extended only gradually. It has therefore been thought desirable to fix the minimum of elected members to one-third leaving it to the discretion of the Government to increase the number to one-half or more as they deem fit.

Some of the Committees have suggested that they should have the power to elect a Vice-President. This has been provided for in the Bill. The Government may also direct that the President of any Municipality be elected by the Municipal Councillors.

Under the present Regulation, the Town Improvement Committees are not declared to be corporations and this has given rise to considerable difficulties. Clause 24 makes a Municipal Council a corporation with perpetual succession and a common seal and with power to hold and acquire property.

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The chapter next deals with the conduct of business in a Municipal Council. The meetings of all Municipal Councils are to be open to the public with a limitation that the presiding member may, in any particular case for reasons to be recorded in writing, direct that the public or any portion of it should withdraw. The Bill empowers the President to grant copies of the proceedings and records of Council on payment of such fees as may be prescribed and the members are allowed access to any records of the Council after giving due notice to the President.

The existing Regulation does not specifically authorise the right of interpellation to the members of a Committee. A set of rules have been framed for the Trivandrum Committee alone empowering the members to interpellate on matters that could come up at a meeting of the Committee. Difficulties have been experienced in the practical working of these rules. With a view to remove the defect and to allow all the Committees the right of interpellation, clause 29, sub-clause (2), provides that every Councillor shall have the right to interpellate the President on matters connected with the municipal administration subject to such rules as may be framed by the Government. The delegation of the powers of the President to the Vice-President is also provided for in clause 30 (3). Lastly it is provided under this head that no act done or proceeding taken under the Regulation shall be questioned on the ground merely of the existence of any vacancy in any Council or on account of any defect or irregularity not affecting the merits of the case.

The chapter next deals with officers and servants.

Officers and servants :—Under the existing Regulation, when the number and salaries of the servants are fixed by the Committee with the sanction of the Government, the power of appointment is vested in the Government, the Committee or the President, according to the rules prescribed by the Government. The Quilon and Parur Committees insist that they should have the power of appointment and dismissal. The President being responsible for the executive administration of a municipality, the power of appointment of servants in the sanctioned establishment is vested in him. But in the case of higher officers such as chief officer, health officer or engineer, the power of appointment vests with the Government. Government servants are now lent to the Committees who pay a pensionary contribution. It is thought desirable to define exactly the rights and duties of the Government and of the municipality in relation to such servants. The power to punish servants necessarily follows the power to appoint them. Such power is to be regulated by rules framed by Government and an appeal will lie from orders of fine, suspension, reduction or dismissal of a servant. (Vide sub-clause (d) of clause 251). If sanctioned by Government, the Council may establish a Provident Fund for the benefit of their servants and the Municipal Council may grant pension, gratuity or annuity to a servant of theirs out of the Municipal Fund.

The subject of contracts is provided for next. No councillor, officer or servant is allowed to have any interest in any contract within the Municipality for any of the purposes of the Regulation. The nature of the 'interest' contemplated in the Section is defined and any councillor, officer or servant who knowingly acquires directly or indirectly any interest is liable to a penalty. The general rule stated above stands, as observed by the Supreme Court of the United States, "upon a great moral obligation to refrain from placing ourselves in relations which ordinarily excite a conflict between self-interest and integrity. It restrains all agents, public and private. The desirability is a consequence of that relation between them which imposes on the one a duty to protect the interest of the other, from the faithful discharge of which duty his own personal interest may withdraw him. In this conflict the law wisely interposes. It acts not on the possibility that in some cases the sense of that duty may prevail over the motives of self-interest and it provides against the probability in many cases, and the danger in all cases that the dictates of self-interest will exercise a predominant influence and supersede that of duty."

The acquisition of land comes next. The existing Regulation contains no provision for acquisition of land for the Committee. For a proper discharge of the duties of a Council it may be necessary to acquire lands. Provision for the same is therefore made in the Bill whereby the Government may, at the instance of the Council, acquire any land which on payment by the Council of the compensation awarded and other costs and interest will vest in the Council.

The subject of 'privileges and liabilities' of the Council is detailed last in the chapter. Under the existing Regulation all suits in connection with the acts or the omissions of the Municipality have to be filed against the Dewan of Travancore. The Bill declares that the Council is a corporation. It may therefore sue and be sued in its own name. In the case of suits against the Council, a notice of two months is made compulsory and the provisions of the Civil Procedure Code regarding notice of suits against the Sirkar have been adopted. The property of a Council being trust property, every Councillor is responsible for the loss, waste or misapplication of any money or other property, if such loss, waste or misconduct is a direct consequence of his own neglect or misconduct.

Chapter III relates to Municipal Fund and property. The provisions of the existing Regulation relating to Town Fund are detailed in clause 52. The Council having been empowered to own property the income from such property or the proceeds of sale or other transfer of

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such property are included under this head. All fines and penalties levied under any Regulation in which provision is made for the credit of such fund to the Municipal Fund will also come under this head. Some of the Committees have urged that certain properties within the town limits should vest in them, *e. g.*, streams, tanks, public streets, etc. This provision exists in all the British enactments and Mysore and Cochin Regulations. Clause 53 therefore details the properties which will vest in a Municipal Council. It may, however, be necessary that some properties should not vest in the Committee but vest in the Government. In such cases, a reservation may be made when the Bill is passed. If, however, any omission is made in reserving any property out of the operations of this clause, and the properties have vested in the Committee, the Government may on finding out the mistake reserve the properties which have vested in the Committee. Some of the Committees have suggested that the surplus funds of any Committee should be invested for interest. Clause 55 empowers them to do so in the Government or Anchal Savings Bank or any other Bank approved by the Government.

At the suggestion of the Committees and in accordance with the British Indian 'Local Authorities Loans Act' and the Mysore Regulation, the Council is permitted to borrow money with the previous sanction of the Government on the security of their funds from the Government or any person for the purpose of carrying out any work of a permanent nature. The nature of the dealing will be entirely subject to the rules framed by the Government and the Government are allowed to realise without going to a civil court.

Chapter IV deals with the obligatory and discretionary functions of the Municipal Council. Section 97 of the existing Regulation provides that the Town Fund shall be utilised for purpos of general conservancy, sanitation and improvement of the town. There is no specific enumeration, however, of the obligatory and discretionary duties of the Committee. All the British Indian Acts, the Mysore and Cochin Regulations enumerate the same. The obligatory and discretionary duties have therefore been enumerated in this chapter, the Government however having the right to decide about the preference to be given to any of the duties:—

(*a*) Watering and maintaining public streets :

(*b*) Obtaining a supply or an additional supply of water ;

(*c*) Housing and maintaining destitute orphans and cripples :

(*d*) Establishing and maintaining Elementary Schools ;

are the important additional obligatory duties imposed on the Council. Subject to the obligatory duties the Council is required —

(*a*) to provide suitable accommodation for the sick in times of infectious disease and to take measures for the suppression of the epidemic :

(*b*) and for relief works in times of famine or scarcity.

There are many discretionary duties provided for, but they do not require any special mention.

Chapter V deals with taxation. As for the question of taxation, the existing Regulation authorises the Committee to levy tax on houses or buildings and lands used as cart-stands and for similar purposes. This is rather vague and as a matter of fact the Committees levy a tax only on buildings and cart-stands. With a view to make the matter clear the section of the Madras District Municipalities Act has been adopted in the Bill. At the suggestion of the Quilon Committee the rate obtaining in Cochin *viz.*, a minimum of 2½ per cent and a maximum of 5 per cent on the annual value has been adopted.

Some Committees would wish to have Exemption I of Section 86 which relieves houses whose annual value is not more than twenty-four rupees from taxation, deleted. As such a step may work some hardship on the poor and as the Madras District Municipalities Act exempts buildings whose annual value is not more than six rupees it is thought desirable to exempt buildings or lands whose annual value is not more than twelve rupees.

Exemption III includes agricultural lands from taxation. This is in accordance with the Madras District Municipalities Act.

Section 89, clause (5), authorises the Dewan on receiving the proposals of the Committee to sanction or refuse to sanction the same or return the same for reconsideration. It is not stated what the Dewan should do if he and the Committee disagree as to any modification proposed by him. The provisions of the Bombay District Municipalities Act and of the Mysore Regulation have therefore been adopted empowering the Government to make such modifications as they deem fit. A proviso is however added that the modifications should not be to increase the amount of tax to be imposed as in such a case a fresh notification by the Council is necessary.

With regard to the professional tax, it has to be observed that the rates mentioned in the Schedule are double the existing rates and this is in accordance with the Cochin Regulation. The Council have the power to impose a tax not exceeding the rate mentioned in the Schedule and it is open to the Government to sanction a lower rate if they choose.

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With a view to avoid frequent amendments to the Regulation, the Council have been empowered to levy in addition to the taxes that may be imposed under the existing Regulation a water and drainage tax, provided, however, that the proceeds of such tax are to be utilised solely for such purposes. If, in the interests of sanitation and public health, the Government or the Council with the sanction of the Government decide to supply any town with good drinking water or to have an improved and up-to-date system of drainage the Council may then be authorised to levy a water or drainage tax. Lastly, it has been provided that the Council may propose any new tax, provided, however, that they get the approval of the Government as to the nature and object of the tax and as to the necessity for the same. There is no doubt that with increased powers under the Bill the Committees may require more funds to discharge their duties officiently. While they have therefore the right to propose any new tax, the Government will have to be satisfied that the proposed tax is necessary.

There is no provision in the existing Regulation for appeals against the assessment of the Committee. The order revising the assessment list may be passed either by the Council or a Sub-Committee to whom the power may be delegated. From their decision an appeal is made to lie to a Division Peishkar or any officer empowered by Government and to the Dewan if the Division Peishkar or other officer is a member of the Council. This will relieve the Government of a lot of unimportant correspondence and unnecessary work. In the chapter under 'control', I have also provided that the Government may decide that all correspondence from any Committee should come through any intermediate officer.

If, in hearing such appeals the appellate authority thinks that there is a question of law arising in the same, a reference may be made to the High Court with a statement of the case and the opinion of the appellate authority. There are other provisions about 'appeals' detailed in the Bill, but they are matters of 'procedure' not requiring any special mention.

Chapter VI deals with powers for sanitary and other purposes with regard to streets and buildings.

(1) The Council is empowered to close temporarily any private street or any part of it for any public purpose and with the sanction of the Government, to divert, discontinue or close permanently any public street and sell all the land thereof if not required for the purposes of this Regulation.

(2) The Council is given much larger powers with regard to erection and re-erection of new buildings.

(3) The Council is empowered to make bye-laws with regard to the demolition of buildings.

(4) The provisions of Section 33 which apply to temporary occupation of a street for the purpose of depositing *building materials* are extended to the deposit of any *moveable* property.

Clause 110 corresponds to Section 34A. The procedure to be adopted in dealing with applications for sanction for the construction of new buildings and the purposes for which bye-laws could be framed for regulating the construction of buildings are detailed in clauses 110 and and 111. Under the existing Regulation, the Committees have no power to refuse to sanction the construction of a building. This has been provided for. Though a person who contravenes the provisions of Section 34A may be liable to a fine, there is no power vested in the Committee to have the building altered or demolished. This has been provided for by clause 113. Clause 114 provides that ordinarily the compensation shall be claimable by the owner in consequence of the prohibition of the erection of any building. But in exceptional cases referred to in sub-clause (2) compensation may be made by the Council.

Clause 115 exempts the construction of Government buildings from the operation of clauses 110 to 114. Though the Municipal Acts in British India do not contain any provision about them the Government Buildings Act, IV of 1899, of the Government of India exempts them from municipal control. This has been adopted.

Projections and obstructions. The provisions of Section 33 regarding the temporary occupation of a street for the purpose of depositing building materials have, by adopting the provisions of Section 234 of the Bengal District Municipalities Act, been extended to any moveable property. Under Section 33, no license is necessary for the temporary occupation of a street by an officer of the Public Works or Maramat Department. It is doubted whether the exemption will apply to contractors of the Department. It is thought that they require the same exemption and the Section has therefore been made clear by exempting occupation of a street by or on behalf of an officer of the Public Works or Maramat Department.

Privies and drains. Regarding privies and drains some of the Committees suggest that there should be a provision empowering the Committees to require the owners of markets, motor boat and motor bus companies and the Government in the case of public offices to provide such latrines and urinals as the Council may think fit. As the construction of Government offices is in the hands of professional men and as the construction of latrines and the necessity for the

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same will better be attended to by the Government, public offices and other Government buildings have been exempted. The Committees' suggestion has been adopted with reference to the rest.

Laying and connecting pipes, sewers and the like. The provisions under this heading are new and taken from the Punjab Act. It is intended to empower the Committees to take their wire, pipes, drains, etc., through any street or private property for the purpose of establishing and maintaining any system of lighting, drainage or sewerage.

Offensive and dangerous trades. The suggestions of the various Committees on this head have been accepted. If any addition is necessary it may be provided for by a Government notification. (Vide the definition of 'offensive and dangerous trades'.)

Many Committees have suggested that they should have the power to insist on a license being taken for dramatic performances and other entertainments within the Municipality. This clause has accordingly been drafted on the lines of the Punjab Act.

Slaughter-houses. Clause 141 empowers the Council to charge fees for public slaughter-houses. The existing Regulation does not empower a Committee to farm out the license fee payable on the slaughter of animals. Unless expressly empowered by statute, a Municipality has no power to farm out the license fees and a contract leasing out the collection of the said fees is *ultra vires* and unenforceable (21 M. L. J. 788 and 36 Mad. 113). It is extremely inconvenient for the Committee to collect the fees through their own servants. The defect in the existing Regulation has been cured by the addition of sub-clause (3).

In the case of licensed slaughter-houses, though the owners of the houses may have taken a license, the persons slaughtering animals in such houses are also required to take out a license. Under the English Law though a number of persons may use the same slaughter house, yet each requires a license. (1907) 2 K. B. 278. Section 334 of the Madras City Municipal Act is to the same effect. This provision has been adopted in sub-clause (3) and the Council may charge a fee for such license (sub-clause 4) and may farm out the collection of such fees (sub-clause 5). Some of the Committees would wish to prohibit the admission within the municipal limits of the flesh of any cattle, sheep, goat, or swine slaughtered at any place other than a public or a licensed slaughter-house. This provision is necessary as it is desirable that the Committee should have power to inspect the animals before they are slaughtered. There is no provision as to this in the existing Regulation. Under sub-clause 5 (b) of clause 244, the Council is empowered to make bye-laws for the purpose of controlling, regulating or prohibiting the admission within municipal limits of the flesh of animals slaughtered outside.

Markets. The provisions of the existing Regulation have generally been retained. The power to farm out the collection of market dues is not conferred by the existing Regulation. This defect has been cured (sub-clause 2).

Though Section 61 of the Regulation imposes a penalty on a person who sells or exposes for sale any article in an unlicensed private market there is no provision making the person who keeps open a private market without a license liable. Sub-clause 1 has therefore been drafted adopting Section 402 of the Bombay City Municipal Act.

Prevention of infectious diseases. Though Section 68 of the Regulation empowers the Committee to remove any person suffering from any epidemic disease to a hospital or place at which persons suffering from such disease are treated, there is no obligation imposed on any body to give information about the existence of any infectious disease. Clause 161 therefore requires a medical practitioner or the owner or occupier or other person in charge of or attendance on the patient to give the necessary information.

As an effective means of checking the spread of epidemic diseases the Council may require the disinfection of infected houses and the owner is prohibited from letting such a house without having the same disinfected.

Persons suffering from an infectious, contagious or loathsome disorder are prohibited from making or offering for sale any article of food or drink or touching such article or taking any part in the business of washing soiled clothes.

Such persons are also prohibited from travelling in public conveyances.

Burial grounds. Under Section 70A of the Regulation any compound may be used as a burial or burning ground if its area is not less than one acre. The effect of this proviso is that the Committee cannot prevent burial or cremation in compounds measuring more than one acre even if the same is objectionable on other grounds. Further even though a compound may measure less than one acre there may not be any serious objection to allowing burial or cremation therein. There does not seem to be a provision in any British Indian or other enactment corresponding to the proviso to Section 70A. The Council may be given the discretion to exempt any private ground irrespective of its measurement from the operation of this Section. The proviso has accordingly been modified.

Scavenging. There are no specific provisions about house-scavenging except Section 88. No doubt, rules could be framed on the subject. It is thought desirable to have some specific provisions in the Regulation itself, the Council being empowered to frame bye-laws on the subject. Clause 179 has therefore been newly added.

While undertaking house-scavenging the Councils are bound to see that the removal is done properly and in closed receptacles. Any neglect on the part of the scavengers is liable to a punishment.

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General sanitary provisions. Clauses 182 to 184 are new. They impose on the owners of houses the duty of removing offensive matter and prohibits from depositing or throwing rubbish on roads or into drains. Allowing children to commit nuisances on any street is quite common. Clause 184 is intended to punish the guardians of such children.

Keeping a large number of swine or other animals within the Municipality may be a nuisance. Clause 186 is intended to remedy the same. Under sub-clause (12) of clause 244, the Council may regulate by bye-laws the number and the place of stalling or herding the animals.

Feeding on deleterious substances, animals kept for dairy purposes, is injurious to the public. Clause 187 is intended to prohibit the same.

Selling adulterated articles of food or drink is quite common. The Committee should have the power to see that the offenders are brought to book. Clause 188 provides for it.

It may not in some cases be possible for the owner of a dead animal to convey the same to a place fixed by the Council for the disposal of dead bodies. In such cases the owners may give notice to the Council of the death of the animal and the Council shall be bound to attend to the disposal of the carcass charging such fee as may be prescribed (cl. 189).

Exhibiting a deformity or disease or an offensive sore or wound in streets with the object of exciting charity seems to be quite common. It is desirable that this should be prohibited. (cl. 191).

Clause 192 is a new and wholesome provision. It provides that if a house in the vicinity of a place of worship or an educational institution or a boarding house, hostel or mess occupied by students is used as a brothel or for the purpose of habitual prostitution, a Magistrate of the First Class may direct the discontinuance of such use.

Chapters VII and VIII relate to the extinction of fire and water supply. The provisions of these two chapters will not apply to any Municipality unless specially declared to apply thereto by the Government at the request of any Municipal Council.

Chapter IX deals with education. The Council is bound to attend to the elementary education of boys and girls within the Municipality. This it may do either by maintaining its own schools or giving grant to private schools or by contributing towards the cost of Government schools. The standard of instruction is to be prescribed by the Government. Fees may be levied by the Council, provided that no fee shall be levied up to a certain standard of instruction if the same is declared to be free by the Government. The schools shall be open to inspection by the Government Educational Authorities and recommendations made by such authorities shall be attended to. The grants to be given by the Councils for aided schools shall be regulated by Government Grant-in-aid Code.

Chapter X deals with the registration of births and deaths. The provisions of Section 109 have been mainly followed. The amendments to the existing provisions are—

(1) That the Registrar is bound to live within the Municipality ;

(2) With reference to births, the midwife who was present at the birth is also bound to give information ;

(3) Any person giving the information is required to sign his name in the register and shall also be entitled to get an authenticated copy of the register.

Chapter XI relates to procedure and consists of five sub-heads. Powers of entry and inspection are detailed under the first head. The Council may authorise any person to enter and inspect a building for various purposes :—

(1) for valuation ;
(2) for the inspection of latrines and privies ;
(3) for taking levels and measurements and for examining works under construction :
(4) for the inspection of food or drink offered for sale ;
(5) for the inspection of weights and measures ;
(6) for the prevention of epidemic diseases ;

and for other purposes.

The inspection may be with or without notice as the case may be. If any person refuses to suffer inspection, he is liable to be punished under clause 228.

Sub-heading 2 details the manner in which and the person by whom notices should be issued on behalf of the Council and the penalties for non-compliance with such notices.

The chapter next deals with the payment of compensation by the Council. If by reason of the negligence of the Council any damage is caused to a person by reason of the exercise of any of the powers vested under the Regulation, the Council will be at liberty to pay compensation to the party concerned.

Appeals from orders are next dealt with. Under the existing Regulation there seems to be no limitation with regard to the right of appeal. Any person aggrieved by any order passed by a Committee may appeal to the Dewan. It is not desirable that there should be appeals from all orders, for, in most of the cases, the Committees will be the best judges. But where any person will be materially prejudiced by the order, a right of appeal is reserved. This is in accordance with the provisions of the enactments of Burma, the Punjab, Central Provinces and United Provinces.

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The appeal lies to such officer as may be empowered by Government. In the absence of such appointment, appeals lie to the Dewan. The idea is that the Peishkars may be empowered to hear appeals from the orders of most of the Committees and relieve the Dewan of the same. There are other matters detailed in the chapter not requiring any special mention.

Chapter XII deals with bye-laws. Under the existing Regulation there is no power to frame bye-laws. The purposes for which bye-laws could be framed by the Council with the sanction of the Government are detailed in the chapter. All matters connected with the municipal administration find a place under this head. The suggestions of many Committees requiring special provision for any matters, for instance, requiring a license by hotel-keepers, are all provided for in this chapter. The bye-laws may provide a penalty for a breach of the same.

Chapter XIII relates to the control of Government, and the circumstances under which and the manner in which such control may be exercised. Power is also given to the Government to frame rules for election of Councillors, for borrowing money, for the appointment and dismissal of officers and servants and other purposes.

The last chapter deals with miscellaneous matters.

I have dwelt at length about the arrangement of the Bill and placed before you some of the important provisions. From the above summary it will be clear that the Government desire to take decidedly an onward move in the matter of municipal administration. There is no doubt that the object of the Government could be secured and the municipal administration in Travancore will be a success only by the co-operation of the public and the willingness of the members to take an interest in their work and to realise their responsibilities.

I fully trust that the main provisions of the Bill will meet with the approval of the public. I may add that all the Town Improvement Committees have been invited to express their views on the Bill and I may assure them that when they are received they will be carefully considered at the further stages of the Bill.

With these words I beg to move that the principle of the Bill be affirmed.

Seconded by Mr. Rengaswami Aiyangar.

Mr. Velu Pillai :—

Sir,

The Bill that has just been introduced into the Council is a large instalment of reform calculated to enhance the usefulness of municipal institutions and to generate a feeling of self-help and a sense of responsibility among the people. I congratulate the Government on the generous and statesman-like policy which underlies the provisions of the Bill. No pains have been spared to make the law as comprehensive as possible and the references in the marginal note would show the great labour bestowed upon its preparation. It is with a sense of pride and gratification that the people of this country will welcome this attitude of Government. Municipal administration has not hitherto been a fascinating concern with us. The work turned out by the Town Improvement Committees during the several years past is not a glorious record ; but the fault if any consisted in a narrow conception of municipal life and the meagre powers which the law gave to the Town Improvement Committees. The monotonous proceedings of these bodies used to be as disappointing as they were uninteresting. But fortunately for us a feeling of municipal responsibility and a perception of the supreme necessity of solving local problems has dawned upon the people. This again is due to the wise policy of our Government in associating the people with the conduct of local affairs by granting to the T. I. C's. the right of representation to the Popular Assembly and by conceding the principle of election to membership in the Committees. It is thus in full accord with this policy of Government that greater rights and obligations are sought to be accorded to Municipal Councils.

At this stage we are concerned only with the principle of the Bill. There are, however, certain features in the Bill which call for some remarks. I hope I shall not be misunderstood when I say that some of its provisions as at present drawn up fail to justify the solicitude of Government in expanding municipal life and encouraging a healthy scheme of local self-government. Some of the provisions in the draft Bill have the effect of diminishing self-reliance on the part of the councillors by making them look up to the paternal action of Government. The success of municipal administration has to be measured by the latitude given to non-official action and our Government has all along recognised this salutary principle. But even the present Bill appears to doubt the efficiency of non-official work and view with suspicion the independence of non-official initiative. To begin with, the right of interference in the confirmation of elections reserved in Government follows a wrong principle. The qualification of voters is the first thing to be determined but it is not attempted to be done in this Bill. When that is done the elected representatives are to be accepted as councillors as a matter of course unless there is any defect in their election which matter should be adjudicated upon by a court of law, or when the elected representative is one who has been convicted of an offence involving moral turpitude. The wording of Section 10 gives greater prominence to appointment by Government than to election by the rate-payers.

I find that the Bill reserves to Government the power to reject a man duly elected without assigning any reason. This is an erroneous doctrine which will enthrone the predilections and prejudices of the Government for the time being on a legal basis and make the freedom

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of election a misnomer. I speak with particular reference to the second proviso in Section X Clause C, Section XIV, Clauses II and IV of Section XV, Clauses C and D of Section XIX. The people of Travancore are justly famous for their good sense and moderation and it is no compliment to them to be told that the Government reserves the power of rejecting a Councillor duly elected by them merely because Government finds some ostensible reason. Clause C of Section XIX is obnoxious to our pride of citizenship. If a Councillor becomes—I trust that it will never be so—dangerous to public peace or order the ordinary criminal law is sufficient to save society from his influence and I cannot see any reason why this inauspicious provision should be inserted in a law which is going to be a charter of freedom. Clauses D and E grant to the Government power to remove a Councillor if he flagrantly abuses his powers as Councillor or his continuance is unnecessary or undesirable. These are very elastic terms at once vague and arbitrary, and the retention of such power would prevent the discharge of a Councillor's duty to his satisfaction and the satisfaction of the rate—payers.

Coming now to the provision regarding the qualification of Councillors, my first objection is that they are conceived in a spirit so narrow that it is not justified by the conditions of modern society. A person of the female sex, when one of proper education and public spirit is available, may be able to do very good work as a Councillor because she will have exceptional facilities of moving among women and children and finding out their wants. But under the Bill a woman is never competent to be a Councillor. Several other classes of persons are similarly excluded. A gentleman who has his work within the municipality where he remains throughout the major portion of the day, may live three or four miles away for the sake of his health or for other reasons, and this will be all the more frequent in these days of railway and motor traffic. Such a man cannot legitimately be disqualified from becoming a Councillor. In the same manner an officer who has been dismissed the service of Government or a vakil whose sanad has been withdrawn by the High Court may yet be a proper person for the discharge of civic duties ; and if a majority of the rate -payers decide to elect him as their representative, that itself is a sound testimonial to his character. I am unable therefore to find any reason why the above mentioned classes of persons should be disentitled to become Councillors.

Nor am I able to see why there should be a provision enabling Government to fill a place by appointment which has hitherto been filled by election. It is wrong in principle to take away a right which the Government has conceded to the people after due deliberation and final decision. Why the Government should be anxious to retain these small powers is a problem which I for one am not able to solve. The Government should only control the work of municipal administration from without and not dictate action from within. The only legitimate occasions for the interference of Government in matters of municipal administration are when a municipality does anything to the prejudice of the country as a whole and when the permanent interests of society are bartered for the sake of evanescent concerns which might occasionally loom large in the imagination of Municipal Councillors.

I congratulate you, Sir, in having recognised the principle that when suitable men are available the chairmen of municipalities should be non-officials. What I should desire to emphasise is that there is no dearth of such men in this country. For my part I have not been able to see any magic charm in official chairmen. I know some Town Improvement Committees in Travancore whose chairmen are not men of any great consequence in Government service, being either medical officers of the lower grade or Sub-Registrars or such like officers whose minimum salaries are less than Rs. 50 a month. I hope it will not be contended for one moment that these junior officers are superior in status or capacity to all the non-official gentlemen residing within the towns. Permit me, Sir, in this connection to cite a passage from the Resolution of the Government of India on Local Self-Government dated 18th May 1882 when Lord Ripon of happy memory *was the Viceroy of India* "At the outset," says the Resolution "the Governor-General in Council must explain that in advocating the extension of local self-government, and the adoption of this principle in the management of many branches of local affairs he does not suppose that the work will be in the first instance better done than if it remained in the sole hands of the Government District Officers. It is not primarily with a view to improvement in administration that this measure is put forward and supported. It is chiefly desirable as an instrument of political and popular education. His Excellency in Council has himself no doubt that, in course of time as local knowledge and local interest are brought to bear more freely upon local administration, improved efficiency will in fact follow. But at starting there will doubtless be many failures calculated to discourage exaggerated hopes and even in some cases to cast apparent discredit upon the practice of self-government itself. If however the officers of Government will only set themselves, as the Governor-General in Council believes they will, to foster sedulously the small beginnings of independent political life; if they accept loyally and as their own the policy of Government, and if they come to realise that the system really opens to them a fairer field for the exercise of administrative tact and directive energy than the more autocratic system which it supersedes; then it may be hoped that the period of failures will be short and that real and substantial progress will very soon become manifest". The quotation is rather long but it is very useful. If that was the policy to be followed in British India 35 years ago, I can't see any objection to have non-official chairman in all important municipalities in Travancore especially when the country abounds in men of

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education and standing and when the experiment tried by Government in that direction has been a remarkable success. Sir, as you were the non-official President of an important municipality it is not necessary to dwell at length on the subject.

I next proceed to a brief consideration of the obligatory and discretionary functions of municipalities. Some of the duties which a municipality is called upon to perform are important from the national standpoint while others are necessary from the point of view of local convenience and comfort. Here again the Bill attempts to be comprehensive in its nature but it does not go sufficiently forward. As the scope of municipal administration increases rapidly I wish to suggest that some of the duties which the Bill has made discretionary only should be made absolute and obligatory. The proper governance of a town requires steady attention being paid to the regulation of the storage and sale of food and drink to prevent their becoming unwholesome. It is curious that even some of the salutary provisions in the Penal Code regarding the subject do not find a place in this Bill though a penalty is imposed on such persons as sell food or drink which is not of the native substance or quality of the article demanded by the purchaser. It is improper to leave this question to the chances of an agreement between the seller and the consumer. It is a matter of common knowledge that some of the most frightful diseases are transmitted through the medium of food and drink. The malpractices of men engaged in the sale of milk and buttermilk have become scandalous and these articles which are usually obtainable in towns serve only to introduce many varieties of dangerous bascillæ into the human system. The articles of food exposed for sale in our shops are mixtures of dirt and dust. We find that in towns like Trivandrum, infectious diseases are on the increase and yet in a law which is being framed for the proper conduct of municipal administration there is no adequate provision made for mitigating the increasing evil. The existing Towns Conservancy and Improvement Regulation contained safe-guards and hence their omission in the present Bill is all the more conspicuous.

I am tempted to say that the Bill deals more with the pathologcial than with the preventive side of sanitation. The clouds of dust that are thrown up into the air by every passing vehicle spread various forms of malignant contagion which overhang our towns and accelerate the spread of diseases like tuberculosis and typhoid fever. It is these insidious enemies of mankind that are to be vigorously dealt with by the municipal authorities and their responsibility in the prevention of diseases is acknowledged in all civilised countries. Our Bill however is silent on this matter. Regarding the subject of municipal sanitation I have one more topic to discuss. We want pure air in our own homes and outside them. The housing problem is assuming a menacing aspect in our towns. Naturally the town attracts large crowds of people within its limits. The large majority of these people flock thither in quest of work. They are bound to be of poor means, content to pass the weary night in dismal huts. Strangely enough these small houses and insanitary hovels are increasing by leaps and bounds as even wealthy land-owners now realise that these hovels, which cost no amount worth mentioning to construct, pay very good interest on their money. The separate home-steads of the west coast have been very useful from the sanitary point of view. But the small bits of land are parcelled out into ever so many smaller bits and a house or two constructed on each that air often refuses to penetrate into their mysteries. The result is disastrous. It will therefore be of great advantage if such unfortunate multiplication of houses be prevented. Ten cents should be the minimum area in which a house should be allowed to be constructed and house-building in unhealthy surroundings should be prohibited. A definite system of town-planning should be provided ; and if building on healthy suburbs be encouraged by means of grants of the nature of bounties and if at the same time houses in congested areas are heavily taxed the health and strength of our population are bound to be more satisfactory. Loans for house-building will be of very great use. Recreation grounds have also to be provided in convenient places. I do not mean to take up the valuable time of the Council by going into details. I shall close this portion of my remarks by saying that some of the powers and duties made discretionary under Section 60 should be promoted to places under Section 58 and made obligatory.

There is only one other feature of the law that I propose to consider at present. The methods of raising and spending municipal revenue as foreshadowed in the Bill proceeds upon certain fundamental misconceptions. Local finance is a science capable of lending general principles for our conduct. Taxes are to be imposed with reference to the probable expenditure. The Bill no doubt provides for taxes being collected from a few important items *viz.*, lands and buildings, arts, professions, trades and callings, vehicles and animals. License fees are not omitted and in one solitary instance there is an appropriation of the income from a specified source for a certain definite purpose. The distinction between permanent and temporary sources of revenue is not maintained nor is there any source of income reserved to meet the requirements of sudden exigencies. This is in a large measure due to the fact that the difference between a rate and a tax is not taken into consideration. The difference lies in the manner in which the problem of raising money is approached. "In the case of a tax the taxing authority decides that individuals shall make particular payments on particular occasions, and the aggregate sum it receives depends on how much these payments add up to. In the case of a rate the taxing authority decides how much money it wants in the aggregate, and this amount is raised by apportioning the payment of it between the various rate-payers in accordance with some definite standard made for the occasion, or already in existence. Thus in the case of a tax the procedure is by way of addition and in the case of a rate by way of division. In the case of a tax the taxing authority hopes it will get a certain sum. In the case of a rate it knows that it will get it". It will be a good thing to allocate the collection from certain sources for certain definite purposes so that the arrangement might respond to the needs of the municipality.

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No doubt the townsmen will be reluctant to pay a multiplicity of rates and taxes but the answer is that if they want the privileges of a well ordered municipal life they ought to pay for it. But the power of imposing taxes should ordinarily be left with the councils themselves. I view with grave concern the provisions contained in Section 64 empowering the Government or the Municipal Council to exempt any person or class of persons or any property or description of property from taxation. This is not in keeping with the justice and dignity we are accustomed to associate with the Government. The proposal to exempt from liability to taxation all property of Government *viz.* land or buildings or vehicles, palanquins, boats, vallooms, and animals belonging to the Government is grotesque. A municipality should never be regarded as a close preserve of Governmental privileges and exemptions. Preferential treatment has to be given to the Government in certain matters but taxation is not one of them. The exceptional power given to Government under Section 63 to direct the levy of taxes should be dropped as also the discretion to make modifications of the amount of taxes or to impose conditions under Section 62 Clause B. The proposals sent up by Municipal Councils should be sanctioned or rejected *in toto*.

A word more and I have done. A careful perusal of the schedules appended to the Bill under Section 61 would make certain revelations that cannot be easily passed over. Here is an instance of making the poor man pay more than the rich man. In matters of taxation the benefit theory and faculty theory have to be carefully combined. But our schedule contravenes all known principles of progressive taxation. Taxes are to be so arranged as to strike every individual on his real income and if that is our object the principle of proportion has to be judiciously combined with that of progression. Let us see approximately how the proposed rules work in practice.

Clauses.	Income per month.	Income per year	Amount of tax.	Percentage.
VI	Rs. 50-99	Rs. 600-1188	2	1/3 to 1/6
V	„ 100-199	„ 1200-2388	4	1/3-1/6
IV	„ 200-299	„ 2400-3588	8	1/3-4/9
III	„ 300-499	„ 3600-5988	12	1/3-2/5
II	„ 500-999	„ 6000-1198	25	5/12-5/24
I	„ 1000-5000	„ 12000-60000	50	5/12-1/12

It will thus be seen that a man who earns Rs. 60,000 a year has to pay only one-twelfth per cent and the ratio increases as we go down to lower incomes till at last the man of lowest income pays the largest percentage *viz.* one-third per cent and there is no doubt that to him a Rupee has a greater marginal utility than to any other. The poor man has to pay other taxes as well, such as the taxes on salt and import duties on other commodities. The rich man does not consume proportionately larger quantities of these articles. There is another mistake in the system which may be noted with advantage. A man who earns say Rs. 999 per month has to pay only Rs. 25 a year and he therefore gets a net income of Rs. 974. But there happens to be a difference of one Rupee in his gross income *i. e.*, when he earns Rs. 1,000 a month *i. e.*, he has to pay a tax of Rs. 50 so that his net income is only Rs. 950 which is Rs. 24 less than that of the former. What I wish to emphasise is that the rough and ready method of classification followed in the Schedule is illogical and inequitable. To fix Rs. 50 as the maximum tax is a dead loss to the Municipality for it is well known that there are several persons and corporations within it who are making large incomes varying from Rs. 1000 to Rs. 10,000 a month. It is but fair that they be asked to pay taxes in proportion, for it is they who consume the largest share of the convenience and comfort of urban life. These considerations will I trust convince the Council that the Schedule has to be completely re-arranged and the rules modified accordingly.

In the course of the foregoing observations I have attempted to show that the draft bill needs considerable modifications both of principle and of details. I trust these drawbacks will be removed in the course of the progress of the measure through the select committee. With these words I beg to second the motion.

Mr. Parameswaran Pillai:—

Sir,

I have very great pleasure in supporting the principle of this Bill, and, in doing so, I wish to say a few words in order to make my position clear. I believe that the principle of the Bill indicates the intention of Government to widen the sphere of usefulness of the Municipalities. When the matter was first referred to the Town Improvement Committies for opinion, it came in the shape of a request for suggestions for the amendment of the Towns Conservancy and Improvement Regulation and it is very gratifying to me personally that the suggestion of the Quilon Committee of which I was then a member that the name "Municipality" must be substituted for "T. I. C." and that better provision should be made for the organisation of Town Municipalities, for the conservancy and improvement thereof, for the purpose of the diffusion of education therein and for other objects of public utility calculated to promote the health, comfort,

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and convenience of the inhabitants of the said Municipalities, found favour with the Government and was kept in view in framing the present Bill.

The Town Improvement Committees are very much handicapped on account of their sphere of work being restricted and also as there are not suitable provisions in the Act to enable them to carry out their duties which are multifarious. Take for instance, a single example. Private scavenging has been introduced in many towns and scavenging fee is levied from the inhabitants. There is no provision in the Regulation for compelling people to construct privies. The result is that the scavenger's work is made difficult and what happens is that no scavenging is done even in very many congested areas where it is absolutely necessary. There are schools without latrines and urinals. The boys are left to shift for themselves and they use the sides of the public roads in front of the schools as urinal. This, I need hardly say, is injurious to the sense of decency of the boys. When the boys grow up to manhood, what respect will they have for the nuisance laws of the Municipalities? One notable instance of this kind, I brought to the notice of the President of the Town Improvement Committee, Quilon. Though I received a reply that the matter will be attended to, there has been no change in the practice. He is not to blame. He has no power to enforce the construction of latrines. Instances of duties without corresponding rights and powers may be multiplied. But suffice it to say that the present is an attempt to remove such anomalies and incongruities and to place municipal administration on a sounder and broader basis. We recognise with pleasure that various matters, such as, elementary education, water supply, extinction of fire, etc., have been placed under the control of the municipalities. They have been invested with larger powers in regard to finance, thereby widening their usefulness on a larger scale. At the same time, in the matter of the powers of the President, the supervision of the Government, etc., I believe, a more liberal policy of decentralisation might be pursued with advantage. The hold of the Government over the administration of the municipalities remains as tight as ever. There are a good many cases in which we would prefer to allow the municipalities greater autonomy. In the present state of the country, a certain amount of Government control is perhaps desirable. But too much of it will weaken that sense of responsibility upon which the successful working of these bodies largely depend. It will also hamper their work by delay in execution which is the result of too much red-tapism. There are a good many provisions which are imperfect and which require amendment. But this is not the stage at which they should be pointed out and corrected. We shall do so at the proper time. But there is one matter on which I should like to say a few words. This is in regard to Chapter IX which deals with the concern of the Municipalities in regard to education. Provision of elementary education within municipal limits has been left to the municipalities. Section 58, Sub-Section (p) says "It shall be the duty of every Municipal Council to make provision for establishing and maintaining Elementary Schools." Section 206 specifies the means by which the Council may provide instruction. This, it appears to me, is an occasion for considering whether an experiment may not be made in regard to the vexed question of compulsory elementary education in these municipalities. These municipalities are given wide powers in regard to local taxation and borrowing. These powers may be usefully exercised for the extension of primary education also. With your permission, I wish to refer briefly to the method adopted in England in this matter. In the beginning of the nineteenth century, no system whatever of elementary education existed in England and Wales. In 1820, an attempt at legislation on this matter was made but religious jealousy and dislike of change rendered it abortive and it was not until 1833 that the House of Commons voted a sum of 20,000 £ for purposes of education. It was passed late in the Session and carried by a majority of 24, only 76 members being present. Many eminent men voted against it. Cobbet declared that the sole result of the movement was "to increase the number of school-masters and mistresses, that new race of idlers." From this time the matter began to attract public attention until in 1870 in the first ministry of Mr. Gladstone, a momentous legislation was passed, which was the first step taken by England towards making elementary education compulsory. The Bill was introduced by the Rt. Honorable W. E. Foster, and after numerous modifications, was passed by both Houses of Parliament. Although considerable additions have been made, only five or six Sections of the "Elementary Education Act" 1870, were repealed before 1902, and it remains the basis of English public elementary education to-day.

I shall refer to the salient features of the Act for the purpose of this matter. The salient features of the Act so far as they are interesting to us are the following :—

It enacted that there should be provided for every School District a sufficient amount of accommodation in public elementary schools available for all the children resident in such District, for which elementary education sufficient and suitable provision is not otherwise made. Provision was also made for the appointment of school boards for this purpose. School boards were bound to maintain and keep efficient every school provided by them, and from time to time to provide such additional school accommodation as they deemed necessary. They had powers to provide school-houses properly fitted ; to improve, enlarge and fit up any school provided by them, to take over existing schools, to contribute to or to build and maintain industrial schools. Power was also given to them to acquire land for school purposes under the Land Consolidation Act, 1845. If a school board within a year after their election did not supply the accommodation required by the Department, or if subsequently they failed in their duties in maintaining or conducting their schools, and did not respond to the requirements of the Department, they were declared to be in default, and in all cases of default, the Department had power to

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appoint a school board of their own, paid, if necessary and with full power to act for as long a time as was needed.

Attendance.—Any school board with the consent of the Department might make bye-laws requiring the compulsory attendance of all children between the ages of five and thirteen. Efficient instruction in some other manner, sickness, or more than three miles distance from a public elementary school, were regarded as reasonable excuses for non-attendance, the bye-laws might impose penalties on parents and guardians but no fine imposed, with costs included, was to exceed five shillings.

Power of raising money.—The expenses of a school board were to be paid out of the 'school fund' into which was paid all the money received in scholar's fees, Parliamentary grant, and otherwise and any deficiency was to be supplemented by money raised by local rates, to the amount of which there was no limit fixed.

This Act was amended in 1880 and under the amended Act, it became obligatory on all school boards and school attendance Committees to pass bye-laws under the Act of 1870. If the bye-laws were not made, the Education Department might treat the locality as in default under the law of 1870 or might themselves make the bye-laws for the District.

The Act was again amended and under it, the school boards and the school attendance Committees were abolished and their duties and powers were taken over by the County Councils. These Councils appointed their education Committees. Besides generally inheriting all the obligations and functions of school boards and school attendance Committees, the local education authority is under the Act specially responsible for, and has the control of, all secular education in the public elementary schools in its District, and must maintain and keep efficient all public elementary schools within its area, which are necessary, and control all expenditure required for that purpose except that for which provision has to be made by the managers of non-provided schools. They were also empowered to levy rates and borrow money.

Failures.—In the event of the local education authority failing to fulfil any of their duties under the Elementary Education Acts, or failing to provide necessary additional public school accommodation, the board of education may, after holding a public enquiry, make such orders as they think necessary or proper for the purpose of compelling the authority to fulfil its duty, and any such order may be enforced by *Mandamas*.

Thus we see the first step was to create local bodies and to require them to provide accommodation for the children and they were also empowered to make bye-laws for making elementary education compulsory. In course of time, it was made obligatory on the local bodies to frame such bye-laws. The local bodies we now create may be given similar powers and functions which I hope will be exercised with discretion and prudence. If this succeeds we might create local bodies exclusively for this purpose and transfer the duties to them. Our elementary education budget is 10½ lakhs which works out at 8 chs. per head of population. As I said already Great Britain began with a vote of £ 20,000 in 1833. In 1860 it was £ 8,00,000. In 1901 it was over £ 11,000,000, exclusive of over £ 6,000,000, raised by rates for the same purpose. This marks out at 7·8 d. per head. I was not able to ascertain what it is today. It must be considerably more. There would be no harm, therefore, if the municipalities were empowered to levy an additional educational tax. I wish to submit that this is a proper occasion for the Government to consider whether a beginning may not be made in this reform for which the public have been agitating for so long a time and the usefulness of which has been recognised by Government. Of course, it is purely a question of finance. Before extending the provision throughout the State, I would suggest that it may be tried in the municipalities. Now that the Town Conservancy and Improvement Regulation is being amended, this matter which affects the principle of the Bill in hand might be taken into consideration. As regards the other provisions which require amendment there are other stages of the Bill at which the proposal may be made and if accepted may be brought into effect. With these few words, I have great pleasure in supporting the motion made by the mover of the Bill.

Mr. M. Subramanya Pillai:—

I understand that the principle of the Bill aims at giving enlarged powers to the various Town Improvement Committees in the State and at extending their sphere of work, so as to make them more useful to the public. It is a fact beyond doubt that the people of Travancore are not at all behind the people in British India or other Native States, so far as their enlightenment is concerned, and so, there is no reason why a good deal of local self-government may not be allowed in our State. A Bill of this kind was long overdue for Travancore and I think the public will welcome it now. Additional powers of taxation and more freedom in the matter of spending funds are absolutely necessary. Only then the members will feel a sense of responsibility and will take more interest in their work. The introduction of the Bill is also quite opportune; for the public of Travancore have begun to think seriously of the justice of the Government's spending such a large amount every year both through the various T. I. C's. and the P. W. D. for the exclusive benefit of the town population. It is a fact which we have to bear in mind always when we carry the Bill through its different stages. I don't propose to go into the details of the Bill now and it gives me pleasure to support the motion now before the Council.

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Mr. A. Govinda Menon.

I have nothing to add to what has been said by the previous speakers, except that I agree with Mr. Parameswaran Pillai in regard to the provision for the introduction of free compulsory education, at least within the limits of municipalities. What other suggestion I have to make may be better made at the further stages of the Bill.

Mr. Subba Aiyar in reply said as follows :—

"I am glad to acknowledge the fact that the principle of the Bill has met with the approval of the non-official members of the Council. There are some points suggested both by Mr. Velu Pillai and Mr. Parameswaran Pillai. Mr. Parameswaran Pillai would like to introduce the question of compulsory education also in the Bill. With regard to that, I have to observe that the question of compulsory education is a general and, is at the same time, a difficult one. It was only recently that the Council had to reject the motion for leave to introduce a Bill regarding compulsory education. With reference to that Bill, I had to observe that so far as Travancore was concerned the difficulty was for the Government to provide schools and school masters for pupils who wished to be admitted into schools. I therefore think that the question of compulsory education may be left out of account for the present.

With regard to the observation of Mr. Velu Pillai regarding the exemption of Government buildings from taxation, I may say that there is nothing unreasonable in it. I may say that in England all Government buildings are exempted by statute from local taxation. Even with regard to British India, it was so in Bombay till recently and it existed in other places as well. Further, Government buildings have been exempted in the existing Regulation and most, if not all, of the Committees had nothing to say about it in the suggestions sent up by them.

With regard to the question of rates and taxes, raised by Mr. Velu Pillai, I may say that that there is no necessity for any distinction being made, as the Committees are at liberty to adopt any one of the ways mentioned in the chapter on taxation. Anyhow, the suggestions of my friends may be considered at the further stages of the Bill.

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyer then moved that the Bill be referred to a Select Committee consisting of Messrs. Vieyra, Mahadeva Aiyar, Rengaswamy Aiyangar, Parameswaren Pillai, Velu Pillai, Paul Daniel and the Mover, to report within six months.

Seconded by Mr. Subrahmanya Aiyar.

Carried.

THE PRESS REGULATION AMENDMENT BILL.

Mr. Subba Aiyar then moved for permission to introduce the Press Regulation Amendment Bill, by suspending the operation of Rule 33 of the Council Rules, as the translation of the Bill had not been published.

Seconded by Mr. Mahadeva Aiyar.

Carried.

Mr. Subba Aiyar accordingly introduced the Bill and stated that, as the Bill was a very small one, there was no necessity for referring the same to a Select Committee. He therefore moved that the operation of the ordinary Rules of business be suspended, so that the Bill might go through all the stages except the final reading.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

The Bill having been approved by the Council, Mr. Subba Aiyar moved that the same be read again on a future day of which notice should be given.

Seconded by Mr. Vieyra.

Carried.

THE CRIMINAL LAW AMENDMENT BILL.

Mr. Subba Aiyar next moved for permission to introduce the Criminal Law Amendment Bill, by suspending the operation of Rule 33, as fifteen days had not elapsed, according to that Rule, since the date of publication of the Bill in the Gazette.

Seconded by Mr. Subramanya Aiyar.

Mr. Sesha Aiyar said that, being an important measure, it would be better to have the Bill taken up after the expiration of the statutory period.

The Council adopted Mr. Sesha Aiyar's suggestion and resolved to postpone the introduction of the Bill.

THE WEIGHTS AND MEASURES REGULATION AMENDMENT BILL.

Mr. Subba Aiyar moved that the Weights and Measures Regulation Amendment Bill be finally read and passed.

Seconded by Mr. Sesha Aiyar.

Carried.

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